



Maricopa County Attorney

WILLIAM G. MONTGOMERY

September 8, 2011

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: WC Docket No. 11-59

To the Commission:

I am a Deputy Maricopa County, Arizona, Attorney. In that position, I represent and advise the Maricopa County Planning and Development Department. In this docket PCIA has made two allegations involving Maricopa County. As counsel to the Department, I want to correct the record and advise you that these allegations are improperly made.

Specifically, at page 19 of its Comments, PCIA says "there are numerous jurisdictions that are thwarting the deployment of wireless broadband because of the unnecessary burdens placed on collocation in the zoning process. Foremost among the burdens is the requirement of a *de novo* zoning review for a collocation and the requirement of a special or conditional use permit to collocate facilities on an existing structure." Then, on page 7 of Exhibit B, PCIA states "Regardless of the status of the existing tower, collocation applications in certain jurisdictions must go through a full zoning review and hearing. One must obtain a variance or special use permit for each new collocation on a tower. Other jurisdictions where the industry has faced this issue include," and Maricopa County AZ is listed.

This statement is false. To obtain the initial tower approval would require a special use permit. In connection with such a permit, an applicant is required to provide a specific plan of development which depicts the entire area of the special use permit as well as specific details of everything to be placed on the ground. The specific plan of development is part and parcel of the special use permit. No further approval is required to collocate an antenna on the tower.

Civil Division

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If new ground equipment is proposed in connection with the collocation, a new specific plan and an amended special use permit would be required. However, if the applicant knows the proposed tower is to include collocation, the applicant merely shows future pads for ground equipment in connection with potential collocation at the time the initial special use permit is approved. If that is done, when collocation occurs the antenna is placed on the tower and the ground equipment is placed on the preapproved pad. In such event, no new zoning entitlement is required. It is not any regulation of Maricopa County that may cause the necessity for additional entitlement; it is the lack of foresight on the part of the applicant.

At page 32 of its Comments, PCIA claims "Wireless facility regulation frequently rules out entirely some types of zoning districts for placement of wireless facilities." Exhibit B is identified as supportive of that statement. On page 10 of Exhibit it is stated "In their attempts to influence the scope and scale of wireless networks and infrastructure within their jurisdiction, local authorities are setting inappropriate and often illegal preferences on the types of wireless facilities that service providers can use and locating such facilities on municipal property. Jurisdictions that have codified blanket bans across certain zoning districts include:" As to all but two of the listed jurisdictions, the Exhibit cites to the specific section of the zoning ordinance containing what is alleged to set forth this ban. Interestingly, next to the listing of Maricopa Co., AZ the citation is N/A. The reason the Exhibit cannot identify the ordinance section that bans towers in certain zoning districts is because the allegation is false. There is no zone in which towers are banned in Maricopa County.

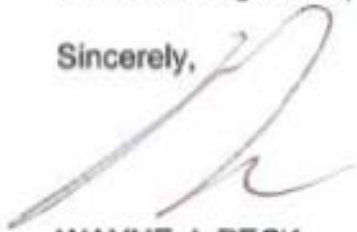
The Zoning Ordinance for the Unincorporated Areas of Maricopa County contains three Wireless Districts. In District One, wireless towers are permitted as of right on any parcel of property that contains a non-residential use. This includes such uses as churches, agricultural uses, and commercial or industrial uses. If property is vacant or contains a residential use, the special use permit process is available.

In Districts Two and Three, cell towers are permitted as of right on all property. While, these uses may, of course, be subject to bulk requirements and may require specific plans of development (site plans), the use is as of right. All land within Maricopa County is located within one of the three Wireless Districts. Therefore, the statements contained in the PCIA presentation concerning Maricopa County are completely false.

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More generally, you should be aware that the County supports the comments of the National League of Cities, National Association of Counties, et al in this proceeding, and encourages the provision of wireless services.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Wayne J. Peck', with a stylized, flowing script.

WAYNE J. PECK
Deputy County Attorney

WJP/mh

cc: Chuck Thompson,
International Municipal Lawyers Association